

REMARKS

The Office Action of February 13, 2004 has been carefully considered.

Claims 4-6, 8-9, 12, 15-16, 18-20 and 22 have been rejected under 35 USC 112, 2nd paragraph, as indefinite on a number of grounds.

The claims of record have now been canceled and rewritten as new claims 23-44, in which the terminology to which objection has been raised has been deleted.

Withdrawal of this rejection is requested.

Claims 1-6, 9 and 11-13 have been rejected under 35 USC 103 over Battegazzore in view of Trout. As claim 23 recites that the outer part of the cap is made of metal (the recitation of original claim 7), this rejection should be considered together with the rejection of claims 7, 8 and 10 over the above combination of references taken together with Granger.

The cap of Battegazzore is alleged to disclose all aspects of the invention except for the pilfer-proof means on the inner part, and the outer cap being made of metal. Trout and Granger have been cited, respectively, to show these aspects.

Both Battegazzore and Trout disclose caps in which the outer part is made of plastic, see col. 2, lines 44-46 of Battegazzore and col. 10, lines 8-9 of Trout. The pilfer-proof means of Battegazzore are part of the outer cap, as disclosed at col. 2, lines 26-27, and includes a visible line of weakening 10 attached to a sleeve 11. While the pilfer-proof means 49-50 of Trout are part of the inner cap, they are nevertheless visible at all times, as they extend beyond the outer cap, as can be seen from Fig. 4.

According to the invention, prior to the first opening,

the outer cap extends beyond the inner cap and conceals the pilfer-proof means. It is not until after the first opening of the receptacle that the pilfer-proof means becomes visible.

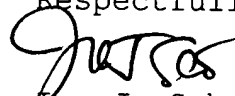
Since the references taken as a whole do not disclose or suggest a metal outer cap which conceals pilfer-proof means which forms part of an inner cap before the first opening of the receptacle, and exposes the pilfer-proof means after the first opening of the receptacle, Applicants submit that the cited art does not render the claimed invention obvious.

Withdrawal of these rejections is requested.

Claims 14-22 have been rejected under 35 USC 103 over Battegazzone in view of Trout, and further in view of Luenser et al, which has been cited for a showing of a cap with an added seal. Luenser et al does not however cure the defects of the Battegazzone and Trout as discussed above, and withdrawal of this rejection is requested.

In view of the foregoing amendments and remarks, Applicants submit that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



Ira J. Schultz

Registration No. 28666